

# Creative Methods for Documenting Property Vacancy

Summarizing Technical Assistance provided by:  
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Numerous NSP grantees are struggling with getting the seller (lender) to sign the Tenant Protection certification form. **NO ONE** I know has been successful in getting this document signed. So, instead many grantees have devised “creative” methods to document the vacancy of the property.

Clearly, if the former occupant was an owner—then you have to find some documentation indicating this—which typically is easier than if the property was an investor-owned property. The biggest liability is when the property was previously occupied by a tenant—who more than likely was **NOT** given proper notice or information on their rights.

Creative methods to document former occupancy and establish a historical chronology:

1. a. **When did the Sheriff's sale occur?** *This can often be found in the County public records. You can also locate a copy of the foreclosure listing published in the County paper. This will indicate who the former owner of record was. Does this name match the name at the post office or utilities?*  
  
b. **When did the Sheriff visit the property to post the sale** (they keep meticulous documents)? Did they serve the notice in person? If not, there is typically a posting on the property or a certified letter is sent to notify the owner. Can the Sheriff indicate if the property was vacant when they visited to serve the owner of the sheriff's sale? *This doesn't always work.*
2. In Minnesota we have a Tenants Union. **Grantees will check to determine if they have received a complaint from a tenant at the “subject” property address.**
3. a. **Check the mail box or with the post office to determine if mail delivery has been cancelled and when, and if there is a forwarding address.** *They may or may not be able to provide this information.*  
  
b. If you feel comfortable ask the neighbors or ask at a community meeting if anyone knows anything about such and such an address. **Collect credible information about the former occupant(s).**
4. Check the condition of the property; is it boarded? If it is, when was it boarded? Did the municipality board it or secure it against trespassers? **Check municipal inspections records.**
5. a. Who is the REO (real estate owned) listing real estate agent? **When did they first visit the property (the date)?** Was it occupied? Was it vacant? *Again, they may or may not cooperate—get as much as you can.*  
  
b. **If you have a RE agent on your team, ask them to check the MLS listings.** Was the property listed previously, if affirmative, when (date)? If it has been recent, check with the previous agent. Was it vacant when they listed it? Was the previous occupant the owner?

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6. **Check with the utility companies** to determine: when a cancellation was initiated; change in payee; or service terminated?
7. Have the grantee, subrecipient, developer, real estate agent, appraiser, non-profit, or community group staff document the date they first visited the property and its occupancy status. **The grantee (or purchaser) should maintain a chronological log every time they visit the property (date/time and purpose of visit) and whether they entered the property.** This date log may help fend off any “after the fact” relocation scammers.

At the NSP Problem-Solving Clinics, the official response was to document as much as possible and if unable to do so — walk away. If Grantees are unable to document the vacancy or abandonment of the property; and are unable to document if the property was occupied by a tenant and that the tenant was given the proper notice, Grantees can still purchase the property—AT THEIR OWN RISK. These grantees run the risk of a tenant coming back after the fact and requesting relocation payments. In these situations, the tenant would have to document they were a legal occupant (with a written lease or some other 3<sup>rd</sup> party documentation) along with the date they moved out of the property. In situations where this may occur, the grantee could be forced to pay relocation.

**Therefore, to protect themselves, some grantees have completed a risk analysis and decided to establish a separate pool of \$\$ (not NSP funds) to offset any potential future relocation payments to compensate legal tenants who were not given proper notices to vacate the property.**

One Minnesota Grantee who has a home-buyer driven NSP program purchasing homes from Fannie Mae uses the following method:

- The grantee provides the home-buyer with its conditional purchase agreement (PA) and NSP amendment.
- When the buyer locates a property, they initial the NSP amendment and send this to the seller with the conditional PA with a copy to the grantee.
- The seller (Fannie Mae lender) rejects the amendment that contains all of the NSP restrictions and sends the Fannie Mae amendment form to the buyer for acceptance.
- The buyer sends a copy of the buyer initialed Fannie Mae amendment to the grantee who places a copy in the file, and the buyer returns the Fannie Mae form to the seller.
- The grantee then sends an e-mail copy of the original buyer initialed Seller Certification form to Jerrold Boardman, Fannie Mae representative with the property address in the subject line.
- Jerrold Boardman sends a return e-mail response to the grantee that simply says “Got it.”
- The grantee prints off this e-mail response and puts a paper copy in the file, which the grantee uses to satisfy the Tenant Protection Act and places any future tenant liability back in Fannie Mae’s court.